

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6077

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JACK DEWHAN RANDOLPH,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, Chief District Judge. (CR-99-192; CA-03-267-2-3-MU)

Submitted: March 10, 2005

Decided: March 15, 2005

Before LUTTIG, MOTZ, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jack Dewhan Randolph, Appellant Pro Se. Kenneth Michel Smith, OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Jack Dewhan Randolph seeks to appeal the district court's order and judgment denying relief on his motion filed under 28 U.S.C. § 2255 (2000). An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating reasonable jurists would find his constitutional claims are debatable and any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude Randolph has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny the motion for remand. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED